

2009 Bill 52

Second Session, 27th Legislature, 58 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 52

**HEALTH INFORMATION
AMENDMENT ACT, 2009**

MR. ROGERS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 52
Mr. Rogers

BILL 52

2009

HEALTH INFORMATION AMENDMENT ACT, 2009

(Assented to , 2009)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cH-5

1 The *Health Information Act* is amended by this Act.

2 Section 1 is amended

(a) in subsection (1)

(i) by repealing clause (a) and substituting the following:

(a) “affiliate”, in relation to a custodian, means

(i) an individual employed by the custodian,

(ii) a person who performs a service for the custodian as an appointee, volunteer or student or under a contract or agency relationship with the custodian,

(iii) a health services provider who is exercising the right to admit and treat patients at a hospital as defined in the *Hospitals Act*,

(iv) an information manager as defined in section 66(1), and

Explanatory Notes

1 Amends chapter H-5 of the Revised Statutes of Alberta 2000.

2 Section 1(1) presently reads in part:

1(1) In this Act,

(a) “affiliate”, in relation to a custodian, includes

(i) an individual employed by the custodian,

(ii) a person who performs a service for the custodian as an appointee, volunteer or student or under a contract or agency relationship with the custodian, and

(iii) a health services provider who has the right to admit and treat patients at a hospital as defined in the Hospitals Act,

but does not include

(iv) an operator as defined in the Ambulance Services Act, or

(v) an agent as defined in the Health Insurance Premiums Act;

- (v) a person who is designated under the regulations to be an affiliate,

but does not include
 - (vi) an agent as defined in the *Health Insurance Premiums Act*, or
 - (vii) a health information repository other than a health information repository that is designated in the regulations as an affiliate;
- (ii) **in clause (c) by striking out** “portion of a program or activity” **and substituting** “activity or other matter under this Act”;
- (iii) **in clause (f)**
 - (A) **by repealing subclause (ix) and substituting the following:**
 - (ix) a health services provider who is designated in the regulations as a custodian, or who is within a class of health services providers that is designated in the regulations for the purpose of this subclause;
 - (B) **by repealing subclause (xi);**
 - (C) **by repealing subclause (xiv) and substituting the following:**
 - (xiv) an individual or board, council, committee, commission, panel, agency, corporation or other entity designated in the regulations as a custodian,
 - (D) **in subclause (xvi) by adding** “other than a Community Board that is designated in the regulations as a custodian” **after** “*Governance Act*”;
- (iv) **by repealing clause (i)(ii) and substituting the following:**
 - (ii) a health service provided to an individual, including the following information respecting a health

(c) *“audit” means a financial, clinical or other formal or systematic examination or review of a program, portion of a program or activity;*

(f) *“custodian” means*

(ix) *a health services provider who is paid under the Alberta Health Care Insurance Plan to provide health services;*

(x) *a licensed pharmacy as defined in the Pharmacy and Drug Act;*

(xi) *a pharmacist as defined in the Pharmacy and Drug Act;*

(xiv) *an individual or board, council, committee, commission, panel, agency or corporation designated in the regulations as a custodian;*

but does not include

(xv) *the Alberta Alcohol and Drug Abuse Commission continued under the Alcohol and Drug Abuse Act, or*

(xvi) *a Community Board as that term is defined in the Persons with Developmental Disabilities Community Governance Act;*

(i) *“diagnostic, treatment and care information” means information about any of the following:*

(ii) *a health service provided to an individual;*

and includes any other information about an individual that is collected when a health service is provided to the individual, but does not include information that is not written, photographed, recorded or stored in some manner in a record;

(k) *“health information” means any or all of the following:*

(i) *diagnostic, treatment and care information;*

(ii) *health services provider information;*

(iii) *registration information;*

services provider who provides a health service to that individual:

- (A) name;
- (B) business title;
- (C) business mailing address and business electronic address;
- (D) business telephone number and business facsimile number;
- (E) type of health services provider;
- (F) licence number or any other number assigned to the health services provider by a health professional body to identify that health services provider;
- (G) profession;
- (H) job classification;
- (I) employer;
- (J) municipality in which the health services provider's practice is located;
- (K) provincial service provider identification number that is assigned to the health services provider by the Minister to identify the health services provider;
- (L) any other information specified in the regulations;

(v) by repealing clause (k) and substituting the following:

- (k) "health information" means one or both of the following:
 - (i) diagnostic, treatment and care information;
 - (ii) registration information;

- (m) *“health service” means a service that is provided to an individual*
- (i) *for any of the following purposes and is directly or indirectly and fully or partially paid for by the Department:*
- (A) *protecting, promoting or maintaining physical and mental health;*
 - (B) *preventing illness;*
 - (C) *diagnosing and treating illness;*
 - (D) *rehabilitation;*
 - (E) *caring for the health needs of the ill, disabled, injured or dying,*
- or*
- (ii) *by a pharmacist engaging in the practice of pharmacy as defined in the Pharmacy and Drug Act regardless of how the service is paid for,*
- but does not include a service that is provided to an individual*
- (iii) *by an ambulance attendant as defined in the Ambulance Services Act,*
- (iv) *by the Alberta Alcohol and Drug Abuse Commission continued under the Alcohol and Drug Abuse Act, or*
- (v) *by a Community Board as that term is defined in the Persons with Developmental Disabilities Community Governance Act;*
- (o) *“health services provider information” means the following information relating to a health services provider:*
- (i) *name;*
 - (i.1) *business title;*
 - (ii) *business and home mailing addresses and electronic addresses;*

(vi) by adding the following after clause (k):

- (k.1) “health information repository” means an agency, corporation or other entity designated by the Minister to act as a health information repository in accordance with Part 6.1;

(vii) by repealing clause (m) and substituting the following:

- (m) “health service” means a service that is provided to an individual for any of the following purposes:
- (i) protecting, promoting or maintaining physical and mental health;
 - (ii) preventing illness;
 - (iii) diagnosing and treating illness;
 - (iv) rehabilitation;
 - (v) caring for the health needs of the ill, disabled, injured or dying,

but does not include a service excluded by the regulations;

(viii) by repealing clause (o);

(ix) by repealing clause (v) and substituting the following:

- (v) “research” means academic, applied or scientific research that necessitates the use of individually identifying health information;

(b) by adding the following after subsection (2):

(3) A custodian who is an affiliate of another custodian is deemed not to be a custodian while acting in the capacity of an affiliate.

(4) For the purposes of this Act, the information specified in subsection (1)(i)(ii) respecting a health services provider is deemed to be individually identifying health information

- (iii) *business and home telephone numbers and facsimile numbers;*
- (iv) *gender;*
- (v) *date of birth;*
- (vi) *unique identification number that*
 - (A) *is assigned to the health services provider by a custodian for the purpose of the operations of the custodian, and*
 - (B) *uniquely identifies the health services provider in relation to that custodian;*
- (vii) *type of health services provider and licence number, if a licence has been issued to the health services provider;*
- (viii) *date on which the health services provider became authorized to provide health services and the date, if any, on which the health services provider ceased to be authorized to provide health services;*
- (ix) *education completed, including entry level competencies attained in a basic education program and post-secondary educational degrees, diplomas or certificates completed;*
- (x) *continued competencies, skills and accreditations, including any specialty or advanced training acquired after completion of the education referred to in subclause (ix), and the dates they were acquired;*
- (xi) *restrictions that apply to the health services provider's right to provide health services in Alberta;*
- (xii) *decisions of a health professional body, or any other body at an appeal of a decision of a health professional body, pursuant to which the health services provider's right to provide health services in Alberta is suspended or cancelled or made subject to conditions, or a reprimand or fine is issued;*
- (xiii) *business arrangements relating to the payment of the health services provider's accounts;*
- (xiv) *profession;*

about the individual who received the health service from the health services provider and not individually identifying health information about the health services provider.

3 Section 22(2) is amended by adding the following after clause (e):

- (e.1) where use of the information is authorized by section 27(1)(d);
- (e.2) where the custodian is conducting data matching for a purpose authorized under section 27;

- (xv) *job classification;*
- (xvi) *employment status;*
- (xvii) *number of years the health services provider has practised the profession;*
- (xviii) *employer;*
- (xix) *municipality in which the health services provider's practice is located,*
- (xx) *provincial service provider identification number that is assigned to the health services provider by the Minister to identify the health services provider,*

but does not include information that is not written, photographed, recorded or stored in some manner in a record;
- (v) *"research" means academic, applied or scientific health-related research that necessitates the use of individually identifying diagnostic, treatment and care information or individually identifying registration information, or both;*

3 Section 22(2)(e) presently reads:

(2) A custodian may collect individually identifying health information from a person other than the individual who is the subject of the information in the following circumstances:

- (e) where collection is for any of the following purposes:*
 - (i) assembling a family or genetic history where the information collected is to be used in the context of providing a health service to the individual who is the subject of the information;*
 - (ii) determining the eligibility of an individual to participate in a program of or to receive a benefit, product or health service from a custodian and the information is collected in the course of processing an application made by or for the individual who is the subject of the information;*

4 Section 27(1)(d) is repealed and the following is substituted:

- (d) conducting research or performing data matching or other services to facilitate another person's research
 - (i) if the custodian or researcher has submitted a proposal to a research ethics board in accordance with section 49,
 - (ii) if the research ethics board is satisfied as to the matters referred to in section 50(1)(b),
 - (iii) if the custodian or researcher has complied with or undertaken to comply with the conditions, if any, suggested by the research ethics board, and
 - (iv) where the research ethics board recommends that consents should be obtained from the individuals who are the subjects of the health information to be used in the research, if those consents have been obtained;

5 Section 35 is amended

- (a) **in subsection (1)(e) by adding** “or continuing treatment and care” **after** “health services”;

(b) by adding the following after subsection (4):

(5) A custodian may disclose individually identifying diagnostic, treatment and care information to a health professional body for the purpose of lodging a complaint with the health professional body.

- (iii) *verifying the eligibility of an individual who is participating in a program of or receiving a benefit, product or health service from a custodian to participate in the program or to receive the benefit, product or service;*
- (iv) *informing the Public Trustee or the Public Guardian about clients or potential clients;*

4 Section 27(1)(d) presently reads:

27(1) A custodian may use individually identifying health information in its custody or under its control for the following purposes:

- (d) *conducting research*
 - (i) *if the custodian has submitted a proposal to a research ethics board in accordance with section 49,*
 - (ii) *if the research ethics board is satisfied as to the matters referred to in section 50(1)(b),*
 - (iii) *if the custodian has complied with or undertaken to comply with the conditions, if any, suggested by the research ethics board, and*
 - (iv) *where the research ethics board recommends that consents should be obtained from the individuals who are the subjects of the health information to be used in the research, if those consents have been obtained;*

5 Section 35(1)(e) and (4) presently read:

35(1) A custodian may disclose individually identifying diagnostic, treatment and care information without the consent of the individual who is the subject of the information

- (e) *to an official of a penal or other custodial institution in which the individual is being lawfully detained if the purpose of the disclosure is to allow the provision of health services to the individual,*

6 Section 37 is repealed.

(4) A custodian may disclose individually identifying diagnostic, treatment and care information to a health professional body for the purpose of an investigation, a discipline proceeding, a practice review or an inspection if

- (a) the custodian has complied with any other enactment authorizing or requiring the custodian to disclose that information for that purpose, and*
- (b) the health professional body agrees in writing*
 - (i) not to disclose the information to any other person except as authorized by or under the Act governing the health professional body, and*

6 Section 37 presently reads:

37(1) A custodian may disclose individually identifying health services provider information without the consent of the individual who is the subject of the information

- (a) to a health professional body that requests the information for the purpose of an investigation, a discipline proceeding, a practice review or an inspection relating to the health services provider, or*
- (b) if the disclosure is authorized or required by an enactment of Alberta or Canada.*

(2) A custodian may disclose the health services provider information described in section 1(1)(o)(i) to (iii), (vii), (xiv), (xv), (xviii), (xix) and (xx), other than home address, telephone number and licence number, to any person for any purpose without the consent of the individual who is the subject of the information, unless the disclosure

- (a) would reveal other information about the health services provider, or*
- (b) could reasonably be expected to result in*
 - (i) harm to the health services provider's mental or physical health or safety, or*
 - (ii) undue financial harm to the health services provider.*

7 Section 37.1 is amended

(a) in subsection (2) by adding the following after clause (g):

(h) information specified in section 1(1)(i)(ii) about a health services provider who provided a health service to an individual referred to in subsection (1).

(b) by repealing subsections (3) and (4).

(3) Subsection (2) does not apply where the disclosure is to a police service or the Minister of Justice and Attorney General under section 37.1, 37.2 or 37.3.

7 Section 37.1 presently reads:

37.1(1) A custodian may disclose individually identifying health information referred to in subsection (2) without the consent of the individual who is the subject of the information to a police service or the Minister of Justice and Attorney General where the custodian reasonably believes

- (a) that the information relates to the possible commission of an offence under a statute or regulation of Alberta or Canada, and*
- (b) that the disclosure will detect or prevent fraud or limit abuse in the use of health services.*

(2) A custodian may disclose the following information under subsection (1):

- (a) the name of an individual;*
- (b) the date of birth of an individual;*
- (c) the personal health number of an individual;*
- (d) the nature of any injury or illness of an individual;*
- (e) the date on which a health service was sought or received by an individual;*
- (f) the location where an individual sought or received a health service;*
- (g) the name of any drug, as defined in the Pharmacy and Drug Act, provided to or prescribed for an individual and the date the drug was provided or prescribed.*

(3) If a custodian discloses individually identifying health information about an individual under subsection (1), the custodian may also disclose health services provider information about a health services provider from whom that individual sought or received health services if that information is related to the information that was disclosed under subsection (1).

8 Section 37.2 is repealed.

(4) Health services provider information may be disclosed under subsection (3) without the consent of the health services provider who is the subject of the information.

8 Section 37.2 presently reads:

37.2(1) A custodian may disclose individually identifying health information referred to in subsection (2) without the consent of the health services provider who is the subject of the information to a police service or the Minister of Justice and Attorney General where the custodian reasonably believes

- (a) that the information relates to the possible commission of an offence under a statute or regulation of Alberta or Canada by the health services provider, and*
- (b) that the disclosure will detect or prevent fraud or limit abuse in the provision of health services.*

(2) A custodian may disclose the following information under subsection (1):

- (a) the name of the health services provider;*
- (b) the business address of the health services provider;*
- (c) the date on which the health services provider provided a health service;*
- (d) the description of a health service provided by the health services provider;*
- (e) the benefits that were paid or charged in relation to a health service provided by the health services provider.*

(3) If a custodian discloses information under subsection (1) about a health service, the custodian may also disclose individually identifying health information about the individual who received that health service if that information is related to that health service.

(4) Individually identifying health information may be disclosed under subsection (3) without the consent of the individual who is the subject of the information.

9 Section 37.3 is amended

(a) in subsection (2) by adding the following after clause (f):

(g) information specified in section 1(1)(i)(ii) about a health services provider who provided a health service to an individual referred to in subsection (1).

(b) by repealing subsections (3) and (4).

9 Section 37.3 presently reads:

37.3(1) A custodian may disclose individually identifying health information referred to in subsection (2) without the consent of the individual who is the subject of the information to a police service or the Minister of Justice and Attorney General where the custodian reasonably believes

- (a) that the information relates to the possible commission of an offence under a statute or regulation of Alberta or Canada, and*
- (b) that the disclosure will protect the health and safety of Albertans.*

(2) A custodian may disclose the following information under subsection (1):

- (a) the name of an individual;*
- (b) the date of birth of an individual;*
- (c) the nature of any injury or illness of an individual;*
- (d) the date on which a health service was sought or received by an individual;*
- (e) the location where an individual sought or received a health service;*
- (f) whether any samples of bodily substances were taken from an individual.*

(3) If a custodian discloses individually identifying health information about an individual under subsection (1), the custodian may also disclose health services provider information about a health services provider from whom that individual sought or received health services if that information is related to the information that was disclosed under subsection (1).

(4) Health services provider information may be disclosed under subsection (3) without the consent of the health services provider who is the subject of the information.

10 Section 41(1.1) is repealed and the following is substituted:

(1.1) The requirement to make a note under subsection (1) does not apply to a custodian that permits other custodians electronic access to individually identifying diagnostic, treatment and care information stored in a database if, when the information is disclosed, the database automatically keeps an electronic log of the following information:

- (a) a name or number that identifies the custodian to whom the information is disclosed;
- (b) the date and time that the information is disclosed;
- (c) a description of the information that is disclosed.

11 Section 46 is amended

- (a) **in subsection (1) by adding** “to the Minister or the Department” **after** “disclose”;
- (b) **by repealing subsections (3) and (5).**

10 Section 41(1.1) presently reads:

(1.1) The requirement to make a note under subsection (1) does not apply to a custodian that discloses a record containing individually identifying diagnostic, treatment and care information under section 35(1)(a) by permitting access to the information stored in the computer database of the custodian if, when the information is accessed, the database automatically keeps an electronic log of the following information:

- (a) the user identification of the custodian that accesses the information;*
- (b) the date and time that the information is accessed;*
- (c) a description of the information that is accessed.*

11 Section 46 presently reads in part:

46(1) The Minister or the Department may request another custodian to disclose individually identifying health information for any of the purposes listed in section 27(2)

- (a) if the Minister or the Department, as the case may be, is authorized by an enactment of Alberta or Canada to obtain the information from the other custodian, or*
- (b) if the information requested relates to a health service provided by the other custodian and*
 - (i) the health service is fully or partially paid for by the Department or is provided using financial, physical or human resources provided, administered or paid for by the Department, or*
 - (ii) the information is prescribed in the regulations as information the Minister or the Department may request under this section.*

(3) On receipt of information under this section, the Minister or the Department, as the case may be, may disclose the information to a custodian referred to in section 1(1)(f)(iii), (iv) or (vii) for any of the purposes listed in section 27(2).

12 Section 47(5) is repealed.

13 Section 48 is repealed.

14 Section 49 is repealed and the following is substituted:

Research proposal

49 A person who intends to conduct research using health information in the custody or under the control of a custodian or health information repository must submit a proposal to a research ethics board for review by that board containing

- (a) the information specified by the regulations, and

(5) Where health information is requested under subsection (1)(b), the Department

- (a) must prepare a privacy impact assessment describing how disclosure of the health information may affect the privacy of the individual who is the subject of the information, and submit the privacy impact assessment to the Commissioner for review and comment, and*
- (b) must consider the comments of the Commissioner, if any, made in response to the privacy impact assessment before disclosing the health information under subsection (3).*

12 Section 47(5) presently reads:

(5) On receipt of information under this section, the requesting custodian may disclose the information

- (a) to a custodian referred to in section 1(1)(f)(iii), (iv) or (vii),*
- (b) to the Minister, and*
- (c) to the Department*

for any of the purposes listed in section 27(2).

13 Section 48 presently reads:

48 In this Division, "health information" means individually identifying diagnostic, treatment and care information or individually identifying registration information, or both.

14 Section 49 presently reads:

49 A person who intends to conduct research may submit a proposal to a research ethics board for review by that board.

- (b) any other information required by the research ethics board.

15 Section 51 is amended by adding “or health information repository” after “custodian”.

16 Section 52 is repealed and the following is substituted:

Application for disclosure of health information or to perform data matching

52 If the research ethics board is satisfied as to the matters referred to in section 50(1)(b), the researcher may forward to one or more custodians or health information repositories

- (a) the researcher’s proposal referred to in section 49,
- (b) the response of the research ethics board to the researcher’s proposal, and
- (c) a written application for one or more of the following:
 - (i) disclosure of the health information to be used in the research;
 - (ii) performance of data matching;
 - (iii) performance of any other service to facilitate the research.

17 Section 53 is repealed and the following is substituted:

Conditions and consents

53(1) A custodian who has received the documents referred to in section 52 may, but is not required to, disclose the health information or perform data matching or other services to facilitate the research.

15 Section 51 presently reads:

51 If the research ethics board is not satisfied as to any of the matters referred to in section 50(1)(b), the researcher may not apply to a custodian under section 52.

16 Section 52 presently reads:

52 If the research ethics board is satisfied as to the matters referred to in section 50(1)(b), the researcher may forward to one or more custodians

- (a) the response of the research ethics board to the researcher's proposal, and*
- (b) a written application for disclosure of the health information to be used in the research.*

17 Section 53 presently reads:

53(1) A custodian who has received the documents referred to in section 52 may, but is not required to, disclose the health information applied for.

- (2) If the custodian decides to disclose the health information,*
 - (a) the custodian*

(2) If the custodian decides to disclose the health information or perform data matching or other services to facilitate the research,

(a) the custodian

(i) must impose on the researcher the conditions suggested by the research ethics board, and

(ii) may impose other conditions on the researcher,

and

(b) if the research ethics board recommended that consents referred to in section 50(1)(a) be obtained, the researcher must obtain the consents before the disclosure of the health information or performance of data matching or other services.

(3) A health information repository that has received the documents referred to in section 52 may disclose the health information or perform data matching or other services to facilitate the research only in accordance with the regulations.

18 Section 54 is amended

(a) **in subsection (1) by adding** “or perform data matching or other services to facilitate the research” **after** “to a researcher”;

(b) **in subsection (2) by adding** “or perform data matching or other services to facilitate the research” **after** “section 52”;

(c) **in subsection (3)(a) by adding** “or performing data matching or other services” **after** “disclosure”.

- (i) must impose on the researcher any conditions suggested by the research ethics board, and*
 - (ii) may impose other conditions on the researcher,*
- and*
- (b) the researcher must obtain the consents referred to in section 50(1)(a), if recommended by the research ethics board, prior to the disclosure.*

18 Section 54 presently reads:

54(1) If the custodian decides to disclose health information to a researcher, the researcher must enter into an agreement with the custodian in which the researcher agrees

- (a) to comply with*
 - (i) this Act and the regulations made under this Act,*
 - (ii) any conditions imposed by the custodian relating to the use, protection, disclosure, return or disposal of the health information, and*
 - (iii) any requirement imposed by the custodian to provide safeguards against the identification, direct or indirect, of an individual who is the subject of the health information,*
- (b) to use the health information only for the purpose of conducting the proposed research,*

19 Section 56(1), (3) and (5) are amended by adding “or health information repository” after “custodian” wherever it occurs.

- (c) *not to publish the health information in a form that could reasonably enable the identity of an individual who is the subject of the information to be readily ascertained,*
 - (d) *not to make any attempt to contact an individual who is the subject of the health information to obtain additional health information unless the individual has provided the custodian with the consent referred to in section 55,*
 - (e) *to allow the custodian to access or inspect the researcher's premises to confirm that the researcher is complying with the enactments, conditions and requirements referred to in clause (a), and*
 - (f) *to pay the costs referred to in subsection (3).*
- (2) *When an agreement referred to in subsection (1) has been entered into, the custodian may disclose to the researcher the health information requested under section 52*
- (a) *with the consent of the individuals who are the subjects of the information, where the research ethics board recommends that consents should be obtained, or*
 - (b) *without the consent of the individuals who are the subjects of the information, where the research ethics board does not recommend that consents be obtained.*
- (3) *The custodian may set the costs of*
- (a) *preparing information for disclosure,*
 - (b) *making copies of health information, and*
 - (c) *obtaining the consents referred to in section 55,*
- which must not exceed the actual cost of providing that service.*
- (4) *If the researcher contravenes or fails to meet the terms and conditions of an agreement under this section, the agreement is cancelled.*

19 Section 56(1), (3) and (5) presently read:

56(1) If a researcher refuses to allow a custodian to access or inspect its premises in accordance with the agreement referred to in

20 The following is added after section 56:

**Part 5.1
Alberta Electronic
Health Record**

Definitions

56.1 In this Part,

- (a) “Alberta EHR” means the integrated electronic health information system established to provide shared access by authorized custodians to prescribed health information in a secure environment as may be further defined or described in the regulations;
- (b) “authorized custodian” means
 - (i) a custodian referred to in section 1(1)(f)(iii), (iv), (vii), (xii) or (xiii), other than the Health Quality Council of Alberta, and
 - (ii) any other custodian that meets the eligibility requirements of the regulations to be an authorized custodian;

section 54, the custodian may apply to the Court of Queen's Bench by notice of motion for an order under subsection (2).

(3) Where authorized to do so by an order under subsection (2), a custodian may

- (a) enter and search any premises of the researcher where the research is conducted,*
- (b) operate or cause to be operated any computer system of the researcher to search any data contained in or available to the system and produce a document from the data, and*
- (c) seize and make copies of any documents of the researcher that are or may be relevant to the investigation.*

(5) The custodian must return any documents seized pursuant to a court order within 60 days after the conclusion of the investigation that gave rise to the seizure, including any hearing or appeal.

20 Alberta Electronic Health Record.

- (c) “prescribed health information” means health information about an individual that is of a class or type prescribed by the regulations that an authorized custodian may or must make accessible to authorized custodians via the Alberta EHR.

Purpose

56.2 The purpose of this Part is to enable the sharing and use, via the Alberta EHR, of prescribed health information among authorized custodians.

Making prescribed health information accessible

56.3(1) An authorized custodian may or, if the Minister requests in writing, must, in accordance with the regulations, make prescribed health information in its custody or under its control accessible to authorized custodians via the Alberta EHR.

(2) For greater certainty, the making of prescribed health information accessible pursuant to subsection (1) does not

- (a) constitute a disclosure of that information, or
- (b) require the consent of the individual who is the subject of the information.

Using prescribed health information

56.4(1) Subject to the regulations,

- (a) an authorized custodian referred to in section 56.1(b)(i) may use prescribed health information that is accessible via the Alberta EHR for any purpose that is authorized by section 27;
- (b) an authorized custodian referred to in section 56.1(b)(ii) may use prescribed health information that is accessible via the Alberta EHR, and that is not otherwise in the custody or under the control of that authorized custodian, only for a purpose that is authorized by
 - (i) section 27(1)(a), (b) or (f), or
 - (ii) section 27(1)(g), but only to the extent necessary for obtaining or processing payment for health services.

(2) For greater certainty, the use pursuant to subsection (1) of prescribed health information that is accessible via the Alberta EHR does not constitute collection of that information under this Act.

(3) For greater certainty, the use pursuant to subsection (1) of prescribed health information that is accessible via the Alberta EHR does not constitute a disclosure of that information by

- (a) the authorized custodian who originally made that information accessible via the Alberta EHR pursuant to section 56.3(1),
- (b) any other authorized custodian,
- (c) the information manager of the Alberta EHR, or
- (d) any other person.

Regulations

56.5 The Lieutenant Governor in Council may make regulations

- (a) defining or otherwise describing the Alberta EHR;
- (b) respecting the eligibility requirements for a custodian to become and remain an authorized custodian for the purposes of this Part, including, without limitation, regulations requiring an authorized custodian to enter into an agreement with respect to the authorized custodian's powers, duties and functions under this Part;
- (c) prescribing classes or types of health information as prescribed health information;
- (d) respecting the manner in which an authorized custodian must make prescribed health information in its custody or under its control accessible to an authorized custodian via the Alberta EHR;
- (e) respecting the purposes for which an authorized custodian may use prescribed health information;

- (f) respecting the governance, management and structure of the Alberta EHR, including, without limitation, regulations
 - (i) designating an information manager of the Alberta EHR, and
 - (ii) respecting the powers, duties and functions of the information manager;
- (g) respecting the procedures, systems and safeguards that an authorized custodian must maintain in respect of prescribed health information that is accessible via the Alberta EHR;
- (h) respecting the audit or monitoring of any matter related to the Alberta EHR;
- (i) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Part.

21 Section 66 is amended

- (a) in subsection (1)(b) by striking out “and” and substituting “or”;**
- (b) in subsection (2) by striking out “may enter into an” and substituting “must enter into a written”;**
- (c) in subsection (3) by striking out “disclose” and substituting “provide”;**
- (d) in subsections (4), (5) and (6) by striking out “disclosed” and substituting “provided”;**
- (e) by adding the following after subsection (6):**
 - (7) A custodian that is an information manager for another custodian does not become a custodian of the health information provided to it in its capacity as an information manager, but nothing in this section prevents the custodian from otherwise collecting, using or disclosing that same health information in accordance with this Act.**

21 Section 66 presently reads:

66(1) In this section, “information manager” means a person or body that

- (a) processes, stores, retrieves or disposes of health information,*
- (b) in accordance with the regulations, strips, encodes or otherwise transforms individually identifying health information to create non-identifying health information, and*
- (c) provides information management or information technology services.*

(2) A custodian may enter into an agreement with an information manager in accordance with the regulations for the provision of any or all of the services described in subsection (1).

(3) A custodian that has entered into an agreement with an information manager may disclose health information to the information manager without the consent of the individuals who are the subjects of the information for the purposes authorized by the agreement.

22 The following is added after section 72:

**Part 6.1
Health Information
Repository**

Designation

72.1 The Minister may, in accordance with the regulations, designate an agency, corporation or other entity to act as a health information repository.

Disclosure of information

72.2 A custodian may, in accordance with the regulations, disclose individually identifying health information to a health information repository.

Powers and duties of repository

72.3 A health information repository has the powers, duties and functions given to it by this Act and the regulations.

23 Section 84 is amended

(a) by renumbering it as section 84(1);

(4) An information manager to which information is disclosed pursuant to subsection (3) may use or disclose that information only for the purposes authorized by the agreement.

(5) An information manager must comply with

(a) this Act and the regulations, and

(b) the agreement entered into with a custodian

in respect of information disclosed to it pursuant to subsection (3).

(6) Despite subsection (5)(a), a custodian continues to be responsible for compliance with this Act and the regulations in respect of the information disclosed by the custodian to the information manager.

22 Health information repository.

23 Additional powers of the Commissioner.

(b) in subsection (1) by striking out “and” at the end of clause (h), adding “and” at the end of clause (i) and adding the following after clause (i):

- (j) exchange information with an extra-provincial commissioner and enter into information sharing and other agreements with extra-provincial commissioners for the purpose of co-ordinating activities and handling complaints involving 2 or more jurisdictions.

(c) by adding the following after subsection (1):

- (2)** For the purposes of subsection (1)(j), “extra-provincial commissioner” means a person who, in respect of Canada or in respect of another province or territory of Canada, has duties, powers and functions similar to those of the Commissioner.

24 Section 107 is amended by adding the following after subsection (6):

(6.1) Despite subsection (6), an authorized custodian who fails to make prescribed health information in its custody or under its control accessible to authorized custodians via the Alberta EHR when requested in writing to do so by the Minister pursuant to section 56.3(1) is guilty of an offence and liable

- (a) in the case of an individual, to a fine of not less than \$2000 and not more than \$10 000, and
- (b) in the case of any other person, to a fine of not less than \$200 000 and not more than \$500 000.

(6.2) Despite subsection (6), a person who uses prescribed health information in contravention of section 56.4 is guilty of an offence and liable to a fine of not more than \$100 000.

25 Section 108 is amended

(a) by repealing subsection (1) and substituting the following:

24 Section 107 presently reads in part:

(6) A person who contravenes this section, except subsection (5.1), is guilty of an offence and liable to a fine of not more than \$50 000.

25 Section 108 presently reads:

108(1) The Lieutenant Governor in Council may make regulations

Regulations

108(1) The Lieutenant Governor in Council may make regulations

- (a) respecting the designation of an affiliate for the purposes of section 1(1)(a)(v);
- (b) designating a health information repository as an affiliate for the purposes of section 1(1)(a)(vii);
- (c) designating a health services provider as a custodian, or a class of health services providers, the members of which are to be custodians, for the purposes of section 1(1)(f)(ix);
- (d) designating individuals, boards, councils, committees, commissions, panels, agencies, corporations or other entities as custodians for the purposes of section 1(1)(f)(xiv);
- (e) designating a Community Board as a custodian for the purposes of section 1(1)(f)(xvi);
- (f) specifying information respecting a health services provider for the purposes of section 1(1)(i)(ii)(L);
- (g) excluding a service from the definition of health service for the purposes of section 1(1)(m);
- (h) describing registration information for the purposes of section 1(1)(u);
- (i) for the purposes of section 4, expressly providing that another Act or a regulation, or a provision of it, prevails despite this Act;
- (j) authorizing persons other than custodians to require individuals to provide their personal health numbers;
- (k) respecting the requirements of a consent or a revocation of a consent that is provided electronically for the purposes of section 34;

- (a) *designating boards, councils, committees, commissions, panels, agencies or corporations or individuals as custodians;*
 - (b) *describing registration information for the purposes of section 1(1)(u);*
 - (c) *expressly providing that another Act or a regulation, or a provision of it, prevails despite this Act for the purposes of section 4;*
 - (d) *authorizing persons other than custodians to require individuals to provide their personal health numbers;*
 - (e) *respecting the requirements of a consent or a revocation of a consent that is provided electronically for the purposes of sections 34 and 59;*
 - (f) *respecting the disclosure of individually identifying registration information by custodians to persons who are not custodians for the purposes of section 36(c);*
 - (f.1) *prescribing information for the purposes of section 46(1)(b)(ii);*
 - (g) *respecting the retention, disposal and archival storage of records for the purposes of section 60;*
 - (h) *respecting the administrative, technical and physical safeguards that a custodian must maintain in respect of health information pursuant to section 60;*
 - (i) *respecting the stripping, encoding or other transformation of individually identifying health information to create non-identifying health information pursuant to section 65 or an agreement referred to in section 66;*
 - (j) *respecting fees payable for services provided under Part 2 and providing for circumstances in which applicants may be excused from paying all or part of a fee;*
 - (k) *defining terms that are used but not defined in this Act.*
- (2) *The Minister may make regulations*
- (a) *designating bodies as research ethics boards for the purposes of sections 48 to 56;*

- (l) respecting the disclosure of individually identifying registration information by custodians to persons who are not custodians for the purposes of section 36(c);
 - (m) prescribing information for the purposes of section 46(1)(b)(ii);
 - (n) respecting the disclosure of health information or the performance of data matching or other services by a health information repository under section 53(3);
 - (o) respecting the retention, disposal and archival storage of records for the purposes of section 60;
 - (p) respecting the administrative, technical and physical safeguards that a custodian must maintain in respect of health information pursuant to section 60;
 - (q) respecting the stripping, encoding or other transformation of individually identifying health information to create non-identifying health information pursuant to section 65;
 - (r) respecting an agreement referred to in section 66;
 - (s) respecting the designation of an agency, corporation or other entity as a health information repository;
 - (t) respecting the disclosure of individually identifying health information by a custodian to a health information repository under section 72.2;
 - (u) respecting the powers, duties and functions of a health information repository;
 - (v) respecting fees payable for services provided under Part 2 and providing for circumstances in which applicants may be excused from paying all or part of a fee;
 - (w) defining terms and phrases that are used but not defined in this Act.
- (b) in subsection (2) by adding the following after clause (a):**

(b) respecting agreements to be entered into by custodians and information managers pursuant to section 66. .

- (a.1) specifying the information that is to be included in a research proposal under section 49;

26 In the following provisions, “or health information repository” is added after “custodian” wherever it occurs:

- section 68;
- section 69;
- section 70(1) and (2);
- section 71(1) and (2).

27 The *Alberta Health Care Insurance Act* is amended by adding the following after section 39:

Disclosure of information to prevent or limit fraud or abuse of health services

39.1(1) In this section, “custodian” means a custodian as defined in the *Health Information Act*.

(2) A custodian may disclose information about a health service referred to in subsection (3) without the consent of the person who provided the health service or of the person who received the health service to a police service or the Minister of Justice and Attorney General where the custodian reasonably believes

- (a) that the information relates to the possible commission of an offence under a statute or regulation of Alberta or Canada by the person who provided the health service, and
- (b) that the disclosure will detect or prevent fraud or limit abuse in the provision of health services.

(3) A custodian may disclose the following information under subsection (2):

- (a) the name and business address of the person who provided the health service;
- (b) the name and address of the person who received the health service;

26 References to health information repository added.

27 Amends chapter A-20 of the Revised Statutes of Alberta 2000. Provision added to address disclosure of information to prevent or limit fraud or abuse of health services.

- (c) the date on which the health service was provided;
- (d) the description of the health service provided;
- (e) the benefits that were paid or charged in relation to the health service provided.

28 This Act comes into force on Proclamation.

28 Coming into force.

